

TAX POLICY DIRECTIVE #1

August 1991

Purpose: Tax Policy Directives are intended to provide the general public with information concerning the Department's official position in regard to a specific issue. These directives may be relied upon by taxpayers until superseded by another policy directive, a change in statute or regulation, or a court decision that would render the policy directive void.

Subject: Statutes of Limitations for Filing Claims for Refund and for Assessing Taxes

References: IC 6-8.1-5-2; IC 6-8.1-9-1

Introduction

The purpose of this directive is to explain the Department's interpretation of the following language:

. . . in the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

This language is found in IC 6-8.1-5-2 (Time limitation for assessing taxes.) and in IC 6-8.1-9-1 (Time limitation for filing claims for refund.).

Discussion

It is the Department's position that the above-cited language establishes the due date, for certain tax returns that may be filed on other than an annual basis, for purposes of calculating the three-year period during which taxes may be assessed and claims for refunds may be filed. In other words, a tax assessment may be made within three years of the later of the date the return is filed or the due date of the return. Likewise, a claim for refund may be filed within three years of the later of the date the tax is paid or the due date of the return.

The main problem involved here concerns a tax period that ends in December for which the return is filed and/or the tax is paid after the first of January the following year. The following examples should make it clear that the statute runs from the later of the two dates.

Examples

- 1) A taxpayer files his sales tax returns on a monthly basis. If the January through November returns for tax year 1990 are filed and the taxes paid on time, the statute of limitations for assessing taxes and for filing a claim for refund will be three years from December 31, 1990.
- 2) For the same taxpayer in example 1, the December return would be filed in January and any tax due paid at that time. Therefore, for purposes of that return only and the amount of taxes paid with that return, the statute of limitations for assessing taxes and for filing a claim for refund for that tax period (December 1990) will be three years from the corresponding date in January 1991.

Conclusion

The statute of limitations for filing a claim for refund is three years from the later of the due date of the return or the date the tax is paid. The statute of limitations for assessing taxes is three years from the later of the due date of the return or the date the return is filed, if no other provisions of IC 6-8.1-5-2 apply.

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